



Missouri Department of Elementary and Secondary Education

— Making a positive difference through education and service —

December, 2002



Guidance Letter

Contact Person

Name: Pam Williams, Director
Special Education Compliance
Phone: 573-751-0699
E-mail: webreplyspeco@mail.dese.state.mo.us

FS – 2002 – 001

To: SPOE Staff, On-going Service Coordinators, Service Providers

From: Pam Williams, Director, Special Education Compliance

Subject: Eligibility Determination Procedures

A recent review of Early Intervention files for children determined eligible for First Steps under Developmental Delay—Communication indicated that, given the information provided in the file, there was insufficient evidence that the children identified met First Steps eligibility criteria. In many of the files reviewed, assessment information showed that the child was at or near age level in receptive language, but below age level in expressive language. In a number of those cases, there was not even evidence that the child exhibited a 50% delay in expressive language. While it appears that it is specifically the area of Developmental Delay—Communication that is the eligibility area of most concern at the present time, the following guidance is given for all First Steps eligibility areas and should be considered when making eligibility determinations for First Steps services.

Eligibility criteria for First Steps can be found in the Part C State Regulations, Section I, State Definition of Developmental Delay. Eligibility criteria fall into two categories:

- A. A diagnosed physical or mental condition associated with developmental disabilities or has a high probability of resulting in a developmental delay or disability.
 - 1. Conditions diagnosed at birth or within 30 days post birth (newborn conditions)
 - a. Very low birth weight

2. Conditions Diagnosed (Neonatal/Infant/Toddler Conditions)
 - a. Genetic conditions known to be associated with mental retardation or developmental disabilities
 - b. Additional Conditions known to be associated with mental retardation or developmental disabilities
- B. A developmental delay identified in one or more of the following areas:
 - a. Cognitive development
 - b. Communication development
 - c. Adaptive development
 - d. Physical development, including vision and hearing
 - e. Social or emotional development

State regulations require that all children referred to First Steps be evaluated to determine eligibility. Children referred to the system because of a diagnosed condition are not automatically eligible. The first thing that the Intake Service Coordinator must do is review the referral for potential eligibility. Those children who are referred by a physician or other medical personnel may have a condition that is clearly not one of the First Steps identified conditions or would not cause one to suspect a significant delay in any area of development. In those circumstances, the System Point of Entry (SPOE) staff shall notify the referral source that a review of the referral has been conducted and that the referral is not accepted by the system. When families self-refer or are aware that the referral was made, a written Notice of Action Refused (along with a copy of the Parental Rights Brochure) must be provided to the family.

Children with Diagnosed Conditions

The State of Missouri has adopted the following conditions to meet the definition of “diagnosed physical or mental condition that has a high probability of resulting in a developmental delay”:

1. Conditions diagnosed at birth or within 30 days post birth (newborn conditions)
 - a. Very Low Birth Weight (VLBW; less than 1,500 grams) with one or more conditions:
 - Apgar of 6 or less at 5 minutes
 - Intracranial bleeds (Grade II, III, or IV)
 - Ventilator dependent for 72 hours or more
 - Asphyxiation
2. Conditions Diagnosed during Part C eligible time period (Neonatal/Infant/Toddler Conditions)
 - a. Genetic conditions known to be associated with mental retardation or developmental disabilities including but not limited to:
 - Down Syndrome
 - Cri-du-Chat Syndrome
 - Klinefelter's Syndrome
 - Trisomy 18 Syndrome (Edward's)
 - Turner's Syndrome

- Trisomy 13 Syndrome (Patau's)
- Triple X Syndrome
- Fragile X Syndrome
- Prader Willi
- Other

- b. Additional conditions known to be associated with mental retardation or developmental disabilities including but not limited to:
- Hypoxic Ischemic Encephalopathy (HIE) and at term (36 weeks gestation or more)
 - Cranio-facial anomalies
 - Epilepsy
 - Spina Bifida
 - Blindness, including visual impairments
 - Macro/Microcephalus, including Hydrocephalus
 - Deafness, including hearing impairments
 - Fetal Alcohol Syndrome
 - Cyanotic Congenital Heart Disease
 - PKU
 - Cerebral Palsy
 - Viruses/bacteria (Herpes, syphilis, cytomegalovirus, toxoplasmosis, and rubella)
 - Acquired Immune Deficiency Syndrome (AIDS)
 - Autism Spectrum Disorders
 - Other

A diagnosed condition must be verified by credible medical reports. This may include information signed by an appropriate physician, case notes, and/or nursing logs.

3. Other conditions known to be associated with mental retardation or developmental disabilities must be based upon informed clinical opinion by Board certificated neonatologists, pediatricians, geneticists, and/or pediatric neurologists. These physicians may refer a child **by indicating the specific condition and the potential impact of this condition in any of the five developmental areas.** The physician should also recommend the early intervention services that are to be considered. The referral/evaluation must be signed by the physician.

Children with Developmental Delay

Children who are referred to First Steps because of a suspected developmental delay must meet the criteria listed below:

1. The child, **as measured by appropriate diagnostic measures and procedures including the use of informed clinical opinion,** is functioning at half (50%) the developmental level that would be expected for a child considered

to be developing within normal limits and of equal age. The delay must be identified in one or more of the following areas:

- a. Cognitive development
- b. Communication development
- c. Adaptive development
- d. Physical development, including vision and hearing
- e. Social or emotional development

The phrase **“as measured by appropriate diagnostic measures and procedures including the use of informed clinical opinion” is important.** A multi-modal evaluation/assessment process is required in First Steps. All parts of that process must be considered when the eligibility criteria is applied. **No child may be declared eligible on the basis of a single test score or subtest score. The test scores must be compared to other pieces of information such as parent report and observation to see if it is compatible with those sources of information.**

In cases where there is subtest scatter or significant differences in subtests of the same domain (for example, a 50% delay in expressive language, 25% delay in receptive language), the professional who administered the evaluation should use informed clinical opinion as to the significance of that split between sub domains. Issues to consider include what instrument was used, what were the specific items required by the instrument as measurements, is this information verified by other sources of information, and given the professional’s experience and judgment, does this split between domains constitute a 50% delay in the domain as a whole for a child of this age? **If so, the evaluator needs to clearly document the support for this position. The documentation should relate to expected developmental milestones for the age of child and impact that the deficits have on those milestones.**

Subtest scores of the Vineland should be carefully examined. When the subtest scores for motor or language indicate significant delays, that should be considered as only one piece of information and is not the criterion used for eligibility. The instrument measures adaptive behavior, not language or motor. Additional evaluations designed to measure performance in language or motor need to be available to verify the Vineland indications. However, the Bayley is constructed to provide valid, reliable subtest scores in motor that may be considered separately from the mental development index. In some cases, the split may in fact represent a developmental delay that is severe enough to warrant eligibility. In other cases, the significance does not support eligibility in First Steps.

The professionals who administer the evaluations must, by regulation and law, meet the highest standards set by the state. For example, one expects speech pathologists to make recommendations concerning the impact in the domain of speech/language, etc. It is unacceptable for any professional to make clinical judgments outside his or her respective discipline and expertise.

Eligibility should never be determined based upon on insufficient information or conflicting information. It is appropriate to require further evaluation/assessment before determining eligibility.

The term “**atypical development**” refers to behavior or functioning that is abnormal for children without disabilities who are the same age. Atypical development may describe a child who presents a very unusual course of development such as the child who has a 50% delay in receptive language abilities but appears age appropriate in expressive language. Or, the child may engage in perseverative behaviors such as echolia or self-abusive behaviors. Children who are eligible for First Steps based upon this criterion are children’s whose development is highly unusual and is not easily captured by checklists and evaluation tools. It is not appropriate to use this eligibility category for children who show general scatter in developmental domains or who have global delays that are not at the 50% level in any domain.